

A-5891  
Variance

To replace an existing stockade fence that is six (6) feet in height located forward of the front building restriction line with a wood flatboard fence in the same location and at the same height.

Anne C. Heilman &  
Lawrence C. Heilman, Trustees  
46 Grafton Street

## 46 Grafton Street



Figure 1: View of existing fence to be replaced



Figure 2: View of existing fence to be replaced.





Figure 3: View of existing fence in private property, exceeding four feet in height forward of the front building restriction line

**CHEVY CHASE VILLAGE  
NOTICE OF PUBLIC HEARING**

---

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 11<sup>th</sup> day of April, 2011 at 7:30 p.m. The hearing will be held at the Chevy Chase Village Hall at 5906 Connecticut Avenue in Chevy Chase, Maryland.

**APPEAL NUMBER A-5891  
ANNE C. HEILMAN &  
LAWRENCE C. HEILMAN, TRUSTEES  
46 GRAFTON STREET  
CHEVY CHASE, MARYLAND 20815**

The applicants seek a variance from the Board of Managers pursuant to Section 8-11 of the Chevy Chase Village Building Code to replace an existing stockade fence that is six (6) feet in height located forward of the front building restriction line with a wood flatboard fence in the same location and at the same height.

**The Chevy Chase Village Code § 8-22 (f) states:**

No person shall construct any fence or wall which exceeds forty-eight (48) inches in height at any location between the front lot line and the front building restriction line.

Additional information regarding this appeal may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at [www.chevychasevillagemd.gov](http://www.chevychasevillagemd.gov) or you may contact the office for this information to be mailed to you.

This notice was mailed to abutting property owners on the 1<sup>st</sup> day of April, 2011.

**Chevy Chase Village Office  
5906 Connecticut Avenue  
Chevy Chase, Maryland 20815  
301-654-7300**



**MAILING LIST FOR APPEAL A - 5891**

**DR. AND MRS. LAWRENCE C. HEILMAN  
46 GRAFTON STREET  
CHEVY CHASE, MARYLAND 20815**

---

<b>Adjoining and confronting property owners</b>	
Mr. Chris M. Dymond Ms. Minh N. Le Or Current Resident 3933 Oliver Street Chevy Chase, MD 20815	Mr. and Mrs. Michael F. Kelleher Or Current Resident 25 Grafton Street Chevy Chase, MD 20815
Mr. Robert Axelrod Ms. Doris M. Kafka Or Current Resident 44 Grafton Street Chevy Chase, MD 20815	Ms. May Day Taylor Or Current Resident 100 Grafton Street Chevy Chase, MD 20815
Mr. and Mrs. Thomas Egan Or Current Resident 101 Grafton Street Chevy Chase, MD 20815	Mr. Chris M. Dymond Ms. Minh N. Le Or Current Resident 3933 Oliver Street Chevy Chase, MD 20815

I hereby certify that a public notice was mailed to the aforementioned property owners on the 1<sup>st</sup> day of April 2011.

**Ellen Sands  
Permitting and Code Enforcement Coordinator  
Chevy Chase Village  
5906 Connecticut Avenue  
Chevy Chase, MD 20815**



March 31, 2011

Dr. & Mrs. Lawrence Heilman  
46 Grafton Street  
Chevy Chase, MD 20815

Dear Dr. & Mrs. Heilman:

Please note that your requests for a variance and special permit to replace the fence on your property and in the abutting public right-of-way is scheduled before the Board of Managers on Monday, April 11, 2011 at 7:30 p.m.

Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

Please note that your property is located in the Chevy Chase Village Historic District. Because you previously received Historic Preservation Commission approval, which does not have an expiration date, for the fence replacement we will accept the prior approval for the work. You will still need to obtain the Montgomery County fence permit before the Village permit can be issued.

For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands  
Permitting and Code Enforcement Coordinator  
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE

5906 Connecticut Avenue  
Chevy Chase, Maryland 20815

Phone (301) 654-7300

Fax (301) 907-9721

ccv@montgomerycountymd.gov  
www.chevychasevillagemd.gov

SHANA R. DAVIS-COOK  
*Village Manager*

DAVID R. PODOLSKY  
*Legal Counsel*

BOARD OF MANAGERS

DAVID L. WINSTEAD  
*Chair*

PETER T. KILBORN  
*Vice Chair*

PETER M. YEO  
*Secretary*

ALLISON W. SHUREN  
*Assistant Secretary*

GAIL S. FELDMAN  
*Treasurer*

LAWRENCE C. HEILMAN  
*Assistant Treasurer*

PATRICIA S. BAPTISTE  
*Board Member*



# Chevy Chase Village

## Application for a Variance

A variance is permission granted to a landowner to depart from the specific requirements of the Village zoning ordinance and allows a landowner to use land differently than specified in the ordinance. The variance is a written authorization from the Board of Managers permitting construction in a manner not otherwise allowed by the Village Code.

Subject Property: <u>46 Grafton Street</u>	
Describe the Proposed Project: <u>replace existing old fence in same location</u>	
Applicant Name(s) ( List all property owners): <u>Lawrence C. and Anne C. Heilman</u>	
Daytime telephone: <u>301 657-3953</u>	Cell:
E-mail: <u>lcheilman@verizon.net</u>	
Address (if different from property address): <u>same</u>	
For Village staff use:	Date this form received: <u>3/22/11</u> Variance No: <u>A-5891</u>

### Filing Requirements:

**Application will not be accepted or reviewed until the application is complete**

- ☒ Completed Chevy Chase Village Application for a Variance (this form)
- ☒ Completed Chevy Chase Village Building Permit Application
- ☒ A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- ☒ Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- ☐ Copy of Covenants applicable to the property except for variances from Sections 8-22, 8-26 or Article IV of Chapter 8 of the Chevy Chase Village Code. If there are no covenants, provide a letter from an attorney or the title insurance carrier stating that there are no covenants.
- ☒ Variance fee (See fee schedule listed in Chapter 6 of the Village Code).

### Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this variance request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: Anne C. Heilman

Date: 3/22/11

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Describe the basis for the variance request (attach additional pages as needed).**

Describe the special conditions of the property (e.g., odd shape, small size, sloping topography, abuts state highway, etc.) and how the property compares to other properties in the Village:

Because it is a corner property the backyard is considered a "frontyard" and a flower fence (tall one already exists) would not give us "backyard" privacy


Describe how enforcement of the building regulations would result in an unwarranted hardship and injustice because of the special condition(s) described above (i.e., describe (i) the unwarranted hardship and injustice that you claim exists and (ii) how the special conditions cause that unwarranted hardship and injustice):

We have lived for 33 years with an existing tall fence (which replaced another earlier one) and the privacy it has given us. Our whole garden/back yard would be "open" to the public if we couldn't continue with what we have.

Describe how the proposed variance most nearly accomplishes the intent and purpose of the requirements of Chapter 8 of the Chevy Chase Village Code, entitled *Buildings and Building Regulations*:

It would be of no inconvenience to anyone else and would enhance the property's appearance.

*In exercising its powers in connection with a variance request, the Chevy Chase Village Board of Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or determination as it deems appropriate.*

<b>Variance Filing Fee</b>	<b>Checks Payable To:</b> <b>Chevy Chase Village</b> <b>5906 Connecticut Ave.</b> <b>Chevy Chase, MD 20815</b>
<i>Per Village Code Sec. 6-2(a)(24):</i> <input type="checkbox"/> \$300.00 for new construction. <input type="checkbox"/> \$150.00 for replacing existing non-conformities. <input checked="" type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. <input type="checkbox"/> Other: \$ _____	<b>Date Paid:</b> 3/22/11 <b>Staff Signature:</b> 
<b>Fee Paid:</b>	



**Chevy Chase Village  
Building Permit Application**

Permit No: A-5871

<b>Property Address:</b> <u>46 Grafton Street</u>	
<b>Resident Name:</b> Daytime telephone: <u>301 659-3953</u> Cell phone: After-hours telephone:      "      " E-mail: <u>lcheilman@verizon.net</u>	
<b>Project Description:</b> <u>replace existing old fence in same location</u>	
<input type="checkbox"/> Check here if the construction will require the demolition of over fifty (50) percent of any existing structure.	
<b>Primary Contact for Project:</b> <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Architect <input type="checkbox"/> Project Manager <input type="checkbox"/> Contractor* *MHIC/MD Contractor's License No. (required):	
<b>Information for Primary Contact for Project (if different from property owner):</b> Name: Work telephone: <u>Same as above</u> After-hours telephone: Cell phone: E-mail:	
<b>Will the residence be occupied during the construction project?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, provide contact information for the party responsible for the construction site (if different from above): Name: Address: Work telephone:      After-hours telephone: Cell phone: E-mail:	
<b>Parking Compliance:</b> Is adequate on-site parking available for the construction crews? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area. Will road closings be required due to deliveries, equipment or other reasons? <input type="checkbox"/> Yes <input type="checkbox"/> No	

**Building Permit Filing Requirements:**  
Application will not be reviewed until the application is complete

- ☐ Copy of stamped drawings approved by Montgomery County Department of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- ☒ This application form, signed by resident.
- ☒ Boundary Survey
- ☒ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☒ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☒ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued). Amount of required deposit or bond will be set by Village Manager.

*Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.*

*If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.*

*No signs advertising the architect, contractor, or any other service provider may be posted on the work site.*

**I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.**

**Applicant's Signature:**

*Anna C. Hilman*  
*Leanne Spahr*

**Date:**

*3/22/11*

*4/1/11*

*To be completed by Village staff:*

Is this property within the historic district?

Yes ☒

No ☒

Staff Initials: *ES*

Date application filed with Village: *3/21/11*

Date permit issued: \_\_\_\_\_

Expiration date: \_\_\_\_\_



<b>For Use By Village Manager</b>	<b>Application approved with the following conditions:</b>
<b>For Use By Village Manager</b>	<b>Application denied for the following reasons:</b>
<div style="border: 1px solid black; padding: 5px; text-align: center;"> <b>D E N I E D</b>  MAR 29 REC'D  Chevy Chase  Village Manager </div>	<i>Handwritten:</i> The fence exceeds the maximum height permitted by Sec. 8-31 of the Code.

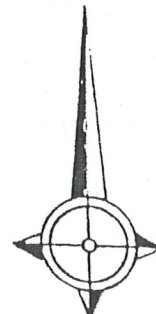
<b>Filing Fees</b> (due when application submitted)	<b>Checks Payable to:</b>
Permit Application Fee: \$ <u>50.00</u> (see Permit Fee Worksheet)	<b>Chevy Chase Village</b> <b>5906 Connecticut Ave.</b> <b>Chevy Chase, MD 20815</b>
Tree Preservation Plan Fee: <input type="checkbox"/> \$250.00 <i>TBD</i> <input type="checkbox"/> Not required for this project.	
TOTAL Fees: <u>\$50.00</u>	Date: <u>3/22/11</u> Staff Signature: <i>[Signature]</i>
<b>Damage Deposit/Performance Bond</b> (due when permit is issued)	<b>Checks Payable to:</b>
<input type="checkbox"/> \$ _____ <input type="checkbox"/> Waived by Village Manager	<b>Chevy Chase Village</b> <b>5906 Connecticut Ave.</b> <b>Chevy Chase, MD 20815</b>
	Date: _____ Staff signature: _____
Cost of damage to R-O-W: (calculated at close-out) Amount of refund:	Date: _____ Staff signature: _____

*For Village Staff use:*

Field file for inspections by Code Enforcement Officer has been created: ☐ Yes (Date: \_\_\_\_\_)

BUILDING LOCATION SURVEY  
CHEVY CHASE SECTION I  
P. 920 LIBER 5046 FOLIO 739  
MONTGOMERY COUNTY  
MARYLAND

GRAFTON STREET  
100' R/W



LICENSE ROW:  
4' FENCE IN ROW  
REDUCES LICENSE

PARKWAY

SECT. 8-31C  
6' FENCE IN R.O.W =  
SPECIAL PERMIT & LICENSE

CEDAR 60' R/W

SECT. 8-22f  
6' FENCE FORWARD OF  
25' BRL = VARIANCE

PROP. COR. WEST

COMPLAINT:  
4' FENCE FORWARD OF FRONT BRL

9.15' 1.05' 6.20' 22.33' 9.15' 1.05' 18.10'

2-STORY BRICK W/BASEMENT # 46

COVERED PORCH

Garage

Village Front BRL is 25'

15' B.R.L.

25'

S 6° 32' 30" E

8' INGRESS - EGRESS EASEMENT

W.S.C. R.O.W. L. 1095 F. 145

P.F.D.

EAST

58.59'

NORTH





## MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

May 11, 2007

**Anne Heilman**

46 Grafton Street

Chevy Chase, Maryland 20815

Re: Fence installation at 46 Grafton Street, Chevy Chase Village Historic District

Ms. Heilman:

This letter is in response to your proposal to replace the existing 6' wooden stockade fence running along the western (Cedar Parkway) side of your property, with a new 6' flat board cedar fence in the same location. Your request to remove the existing stockade fence and replace it with a new 6' flat board cedar fence in the same location is approved. If any additional exterior alterations and revisions to this site are proposed they must be reviewed by the HPC prior to the project's commencement.

This letter will serve as your official approval for the removal of the existing stockade fence and the installation of the new flat board cedar fence. If you have any additional questions, please do not hesitate to contact me at 301-563-3400. Thank you for your cooperation and assistance in this matter.

Sincerely,

Joshua D. Silver

Historic Preservation Planner

Cc: Reggie Jetter, Department of Permitting Services  
Geoff Biddle, Chevy Chase Village Manager

Chevy Chase Village

# Tree Inspection Request Form

<b>Property Address:</b> <span style="font-size: 1.2em; margin-left: 100px;">46 Mrafton</span>
<b>Date this form submitted to Village office:</b>
<b>Resident Name:</b> <b>Phone:</b> <b>E-mail:</b>
<b>This request initiated by:</b> <input type="checkbox"/> Village office staff. <input type="checkbox"/> Resident/property owner
<input type="checkbox"/> Inspect tree(s) <sup>1</sup> requested for removal -- are any of conditions in Village Code Sec. 17-3(a) met? <input type="checkbox"/> Inspect trees <sup>1</sup> on property to determine if a Tree Protection Plan (TPP) is needed for proposed project <sup>2</sup> . <input type="checkbox"/> Pursuant to a Village Bldg Permit application <sup>2</sup> , prepare TPP for trees <sup>1</sup> on property [\$250 fee] <input type="checkbox"/> Verify that a TPP has been implemented for Village Building Permit # _____. <input type="checkbox"/> Follow up on an existing TPP -- is it OK to remove TPP? <input type="checkbox"/> Village right-of-way/park <input type="checkbox"/> Other: _____ <div style="font-size: 0.8em; margin-top: 5px;"> <sup>1</sup> Show location of tree(s) on a plat or site plan (or on diagram on reverse, but only if plat unavailable).  <sup>2</sup> Attach full description of proposed project.           </div>

Sections below must be completed by Village Arborist:

**Tree #1:** ☒ Private Property    ☐ Village right-of-way  
 Location: ☐ Rear    ☐ Front    ☐ Side-L    ☒ Side-R  
 DBH\*= \_\_\_\_\_ Species: \_\_\_\_\_ Tag#: \_\_\_\_\_ ☐ n/a: no tag.

Assessment: Inspected property for fence replacement  
no conflict with trees

**Tree #2:** ☐ Private Property    ☐ Village right-of-way  
 Location: ☐ Rear    ☐ Front    ☐ Side-L    ☐ Side-R  
 DBH\*= \_\_\_\_\_ Species: \_\_\_\_\_ Tag#: \_\_\_\_\_ ☐ n/a: no tag.

Assessment: \_\_\_\_\_

**Tree #3:** ☐ Private Property    ☐ Village right-of-way  
 Location: ☐ Rear    ☐ Front    ☐ Side-L    ☐ Side-R  
 DBH\*= \_\_\_\_\_ Species: \_\_\_\_\_ Tag#: \_\_\_\_\_ ☐ n/a: no tag.

Assessment: \_\_\_\_\_

(For more trees, please check here ☐ and attach pages: # of extra trees \_\_\_\_; # of extra pages \_\_\_\_.)

**Arborist assessment: Does tree meet any of the conditions in Village Code 17-3 to qualify for removal?**

Removal Approved	Denied	*Is permit required? (i.e, is trunk circumf. ≥24"?)	Y	N
Tree #1 <input type="checkbox"/>	<input type="checkbox"/>		Tree #1 <input type="checkbox"/>	<input type="checkbox"/>
Tree #2 <input type="checkbox"/>	<input type="checkbox"/>		Tree #2 <input type="checkbox"/>	<input type="checkbox"/>
Tree #3 <input type="checkbox"/>	<input type="checkbox"/>		Tree #3 <input type="checkbox"/>	<input type="checkbox"/>

**Arborist Signature**     **Date** 8-29-11



## CCV Permitting

---

**From:** Village, Chevy Chase  
**Sent:** Monday, March 28, 2011 10:15 AM  
**To:** CCV Permitting  
**Subject:** FW: Attn: Ellen Sands

---

**From:** Carol Kelleher [<mailto:carolhkelleher@earthlink.net>]  
**Sent:** Saturday, March 26, 2011 1:36 PM  
**To:** Village, Chevy Chase  
**Cc:** LAWRENCE HEILMAN  
**Subject:** Attn: Ellen Sands

Dear Chevy Chase Village and Ms. Sands:

We wish to support the application of Larry and Anne Heilman, 46 Grafton Street, to replace their old stockade fence.

We live directly across Grafton Street at #25, and as we are both at the corner of Cedar Parkway, we frequently walk down the sidewalk bordered by the Heilmans' fence. The old stockade is deteriorating badly and we would be happy to see it replaced. We realize that the 6-foot height the Heilmans are requesting is over the current allowance, but as the new fence would be equal in height to what has been in place for 33 years, and would be a considerable esthetic improvement, we believe they should be allowed to make this replacement. Given that the Heilmans' outdoor porch and seating area are on the Cedar Parkway side, a 6-foot fence gives them a reasonable degree of privacy on a rather busy neighborhood street.

We hope you will allow this fence replacement.

Sincerely,

Carol and Michael Kelleher  
25 Grafton Street

Carol H. Kelleher  
phone: 301-656-4299  
fax: 301-913-9893

## CCV Permitting

---

**From:** Village, Chevy Chase  
**Sent:** Monday, March 28, 2011 10:15 AM  
**To:** CCV Permitting  
**Subject:** FW: 46 Grafton St. Fence

-----Original Message-----

**From:** [dkafka51@yahoo.com](mailto:dkafka51@yahoo.com) [<mailto:dkafka51@yahoo.com>]  
**Sent:** Saturday, March 26, 2011 10:08 AM  
**To:** Village, Chevy Chase  
**Subject:** 46 Grafton St. Fence

To Ms. Ellen Sands: We are the next door neighbors of Larry and Anne Heilman at 46 Grafton St., Chevy Chase, Md. 20815. Our address is 44 Grafton St. We hereby give our approval for the Heilmans to replace their fence on their property. We have no objections whatsoever.  
Sincerely, Robert Axelrod and Doris Kafka.  
Sent from my Verizon Wireless BlackBerry

## CCV Permitting

---

**From:** Village, Chevy Chase  
**Sent:** Monday, March 28, 2011 10:16 AM  
**To:** CCV Permitting  
**Subject:** FW: Heilman fence

---

**From:** May Day Taylor [<mailto:maydaytaylor@verizon.net>]  
**Sent:** Friday, March 25, 2011 3:56 PM  
**To:** Village, Chevy Chase  
**Subject:** Heilman fence

Ellen Sands,

I have been asked to let you know that I am in favor of the new Heilman fence.

I will add that I am also opposed to the significant fees that penalize a homeowner for maintaining their property. For heavens sake! ...this is a replacement fence. And I can see no reasonable effort on the part of the Village to warrant such huge fees! It is a sad commentary on how our village relates with its members.

May Day Taylor

May Day Taylor  
[maydaytaylor@verizon.net](mailto:maydaytaylor@verizon.net)

## CCV Permitting

---

**From:** Village, Chevy Chase  
**Sent:** Monday, March 28, 2011 10:16 AM  
**To:** CCV Permitting  
**Subject:** FW: a fence

---

**From:** [the.sanders@verizon.net](mailto:the.sanders@verizon.net) [<mailto:the.sanders@verizon.net>]  
**Sent:** Thursday, March 24, 2011 9:35 PM  
**To:** [lcheilman@verizon.net](mailto:lcheilman@verizon.net)  
**Cc:** Village, Chevy Chase  
**Subject:** Re: a fence

To Chevy Chase Village Attn: Ellen Sands:

Dear Ms. Sands:

We have absolutely no objections to the fence replacement contemplated by our good neighbors the Heilmans. Please let us know if you have any questions.

Best wishes,

John and Lisa Sanders  
5700 Cedar Parkway  
Chevy Chase, MD 20815  
301-652-8637.

Mar 24, 2011 08:18:58 PM, [lcheilman@verizon.net](mailto:lcheilman@verizon.net) wrote:  
Hi Lisa and John,

Once again, after four years of not doing it, we've decided to replace our fence--same size, same place. And the Village once again requires input from our immediate neighbors. We'd greatly appreciate your sending an email to the Village ([ccv@montgomerycountymd.gov](mailto:ccv@montgomerycountymd.gov)) attn. Ellen Sands, giving your approval--assuming you do approve!

Many thanks, Anne





46- Grafton side garden (off Cedar Run)





Al Patton St. side & rear yard





76 Grafton driveway fence (off Cedar pkwy)





46 Grafton - driveway fence (off Cedar Hwy)





46 Grafton driveway fence





46 Grafton fence along Cedar Pkwy





46 Grafton fence along Cedar Plkwy